

# Robbins Schwartz

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**M. NEAL SMITH**

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November 10, 2017

Cook County Zoning and Building Committee  
Attn: Peter N. Silvestri, Chairman  
118 N. Clark Street, Room 567  
Chicago, IL 60602

**VIA E-MAIL**  
**cookcty9@aol.com**

**Re: J.P. McMahon Properties, LLC – Application for Zoning Map Amendment  
Cook County ZBA # MA 17-01**

Dear Commissioner Silvestri:

This law firm represents Lemont Township. Yesterday you received an email correspondence from Matthew Norton, attorney for the above applicant. Mr. Norton requested confirmation that the Village of Lemont Resolution and Lemont Township Ordinance tendered to the ZBA were insufficient to trigger a three-fourths vote requirement at the County Board level for approval of the applicant's request for a zoning map amendment.

While we disagree with Mr. Norton's analysis, the issue of whether the Resolution or Ordinance trigger a three-fourths vote is moot. The issue is moot because there is already a three-fourths vote requirement as a result of the ZBA failing to recommend approval of the zoning map amendment. Mr. Norton and the ZBA are both incorrect in stating otherwise.

The vote at the ZBA was three in favor and two opposed, with one member abstaining. The ZBA has six voting members currently sitting with one seat vacant. In order for a majority of the ZBA to recommend a map amendment, four members must vote in favor of making the recommendation. The abstention of one of the members was tantamount to a "no" vote and thus a majority of the ZBA did not vote to recommend approval. See *County of Kankakee v. Anthony*, 304 Ill. App. 3d 1040 (3d Dist. 1999). If you have any concerns about this issue, I urge you to seek an official opinion from the State's Attorney to avoid embarrassment, delay or errors.

I also urge you and your colleagues to consider Lemont Township's Ordinance and the position statement it incorporates for the substantive reasoning contained therein. I have enclosed it with this email. The position statement explains why having a fuel tanker parking lot next to residential homes flunks the *LaSalle* factors test in a big way.

Thank you for your consideration. If you have any questions regarding this matter, please do not hesitate to contact me.

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Very truly yours,

**ROBBINS SCHWARTZ**



By: M. Neal Smith

cc: Matthew E. Norton  
Steven F. Rosendahl

Enclosure